THE MADRAS LEGISLATIVE COUNCIL.

Monday, the 14th November 1949.

The House met in the Council Chamber, Fort St. George, at eleven of the clock Mr. President (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Listed posts of District Judges.

***1** *Q.*—SRI R. SURYANARAYANA RAO : " Will the Hon. the Premier be pleased to state—

(*a*) the number of listed posts of District Judges reserved for the members of the Madras Judicial Service;

(*b*) whether the reserved posts are being filled up regularly;

(*c*) whether it is a fact that since 1943 the permanent vacancies occurring in the posts have not been filled up;

(*d*) whether it is a fact that some of the officers who have been acting in these posts even continuously have since retired;

(*e*) whether these retired officers are eligible for pensions only on the substantive salaries of the posts held by them before their promotion;

(*f*) whether the Government have now under consideration the question of filling up vacancies which have occurred since 1943;

(*g*) if the answer to (*f*) is in the affirmative, whether those still in service and those who have already retired will share the benefits;

(*h*) if the answer to (*f*) is in the negative, whether the Government will state the considerations which have made them not to fill up these vacancies; and

(*i*) whether a certain number of posts of District Judges is filled up by direct recruitment, and if so, when the last recruitment took place?

THE HON. SRI K. MADHAVA MENON (on behalf of Hon. the Premier) :—" (*a*) Twelve.

" (*b*) & (*c*) Since 1943 the permanent vacancies occurring in the listed posts of District Judges have not been filled up on account of the operation of the three-year rule enunciated by the Secretary of State and the decisions taken at the Premiers ' Conference in October 1946.

" (*d*) Some of the listed post holders who were acting as District Judges continuously were not confirmed as they reached the age of superannuation within three years from the date of their promotion. They also retired subsequently as acting District Judges.

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" (*e*) Ordinarily acting District Judges in common with all other Government servants are eligible for pension based on their substantive pay only. However, certain acting District Judges, who retired without confirmation on account of the operation of the three-year rule, were permitted to count towards their average emoluments for purposes of pension, their officiating pay as District Judges for the periods during which they could be shown against substantive vacancies. For other periods, they were permitted to count about half of their officiating pay as District Judges with reference to the new concession applicable to officers who officiated in higher posts during the period between 3rd September 1939 and 31st December 1947. Officiating District Judges who could not be shown against substantive vacancies for any period were permitted to count only about half their officiating pay as District Judges with reference to the above concession.

" (*f*) The question of filling up vacancies which have occurred since 1943 is not now under consideration of the Government. The proposals regarding confirmation of certain District Judges who were acting continuously prior to the 15th August 1947 and who were not affected by the three-year rule or by the decisions taken at the Premiers' Conference held in October 1946 were not, however, approved by the Government of India. They will be confirmed in the corresponding posts in the Provincial Higher Judicial Service soon after its formation.

" (*g*) Does not arise.

" (*h*) The Secretary of State issued a direction that acting District Judges who would reach the age of superannuation within three years from the date of their promotion should not be confirmed. It was also decided at the Premiers' Conference held at Delhi in October 1946 that permanent appointments to listed posts as they became vacant should be kept in abeyance and officers should be confirmed in the corresponding posts in the new Administrative Service on the Executive side and in the New Provincial Higher Judicial Service on the Judicial side. The Provincial Higher Judicial Service is under formation. The vacancies will be filled up soon after the formation of that service.

" (*i*) Out of the 12 posts set apart for listed post holders on the Judicial side, 5 posts were reserved for direet recruitment from the Bar and 7 posts were reserved for promotees. The last recruitment took place in 1946."

JANAB ABDUL LATIF FAROOKHI :—" Will the Government consider the desirability of confirming those people as District Judges who are already there now ? "

THE HON. SRI K. MADHAVA MENON :—" That is what I have stated in the answer, namely, that when the Higher Judicial Service is formed, the question of their confirmation will be taken up."

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Sri B. BHIMA RAO :—" May I know why this distinction of listed posts is kept up even after the advent of independence ? "

The Hon. Sri K. MADHAVA MENON :—" There is no question of the listed posts being kept up; those who were recruited before 1947 will continue as such and the others will be confirmed after the formation of the Higher Judicial Service."

Sri R. SURYANARAYANA RAO :—" May I know if the Government have framed the rules for the Higher Provincial Judicial Service? "

The Hon. Sri K. MADHAVA MENON :—" It is under consideration."

Sri R. SURYANARAYANA RAO :—" Is there any proposal to revive the system of direct recruitment? "

The Hon. Sri K. MADHAVA MENON :—" It is under examination."

Sri B. BHIMA RAO :—" Are any principles laid down for the confirmation of those people who have acted as District Judges; is it on account of length of service or with reference to merit or otherwise they will be confirmed? "

The Hon. Sri K. MADHAVA MENON :—" It will be decided after the formation of the Service and the rules will deal with the question."

Janab ABDUL LATIF FAROOKHI :—" Are the orders passed by the Secretary of State for India still in force? "

The Hon. Sri K. MADHAVA MENON :—" No."

Sri R. SURYANARAYANA RAO :—" May I know if for the I.A.S. men some posts are also reserved in the Higher Judicial Service? "

The Hon. Sri K. MADHAVA MENON :—" The I.A's has nothing to do with the Higher Judicial Service."

Sri R. SURYANARAYANA RAO :—" What is the method of direct recruitment which the Government propose to adopt in case they revive direct recruitment? "

The Hon. Sri K. MADHAVA MENON :—" I did not say that we propose to revive the system of direct recruitment; all that I said is that it is under examination."

Transfer of certain District Medical Officers.

* 2 *Q.*—Sri R. SURYANARAYANA RAO :—" Will the Hon. the Minister for Public Health be pleased to state—

(*a*) whether it is a fact that some transfers of District Medical Officers have been made violating the rule that ordinarily an officer should not be transferred from a place before he completes three years; and